

1
2
3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA
5 SAN JOSE DIVISION
6 **STANDING ORDER RE CIVIL CASES**
7 **DISTRICT JUDGE BETH LABSON FREEMAN**
8

9 **A. CONFORMITY TO RULES**

10 Parties and counsel shall comply with the Federal Rules of Civil Procedure, the Civil Local
11 Rules, the General Orders of the Northern District of California, and this Court's standing
12 orders, all of which are available at <http://www.cand.uscourts.gov>. Failure to comply with
13 any of these rules or orders may be grounds for monetary sanctions, dismissal, entry of
14 default judgment, or other appropriate sanctions.

15 **B. COMMUNICATION WITH THE COURT**

16 Parties and counsel shall not communicate *ex parte* with Judge Freeman or her chambers
17 staff by telephone, facsimile, or any other means. Parties and counsel may contact Judge
18 Freeman's Courtroom Deputy Clerk, Tiffany Salinas-Harwell, at 408-535-5381 or
19 Tiffany_Salinas-Harwell@cand.uscourts.gov with inquiries regarding scheduling or other
20 appropriate matters.

21 **C. SCHEDULING**

22 **1. Civil Motions**

23 Civil motions are heard *by reservation only* on Thursdays at 9:00 a.m. Hearing dates
24 may be reserved by contacting Judge Freeman's Courtroom Deputy Clerk, Tiffany
25 Salinas-Harwell, at 408-535-5381 or Tiffany_Salinas-Harwell@cand.uscourts.gov.
26 Once a hearing date is reserved, the motion(s) shall be filed within 14 days thereafter.
27 If no motion has been filed by the 15th day, the reservation will expire and the
28 moving party must obtain a new reservation before filing the motion(s).

2. **Civil Case Management Conferences**

Civil Case Management Conferences are heard on Thursdays at 1:30 p.m.

A *joint* Case Management Statement shall be filed at least 7 days before each Case Management Conference. The joint Case Management Statement shall comply with the “Standing Order for All Judges of the Northern District of California – Contents of Joint Case Management Statement” and Civil Local Rule 16-9.

3. **Final Pretrial Conferences**

Final Pretrial Conferences are heard on Thursdays at 2:30 p.m.

A *joint* Pretrial Statement and Order shall be filed at least 14 days before each final Pretrial Conference in compliance with Judge Freeman’s Standing Order Re Final Pretrial Conference – Bench Trial or Standing Order Re Final Pretrial Conference – Jury Trial, whichever is applicable.

4. **Trials**

Trial is conducted on Mondays, Wednesdays, and Fridays from 9:00 a.m. to 4:30 p.m. and on Tuesdays from 11:00 a.m. to 4:30 p.m.

5. **Telephonic Appearances**

Telephonic appearances are permitted on a case by case basis. A party seeking to appear telephonically shall file an administrative motion pursuant to Civil Local Rule 7-11. If the administrative motion is granted, the party shall contact Court Call Phone Conferencing at (866) 582-6878 *in advance of the hearing* to schedule the telephonic appearance. If the scheduled Court date is vacated after arrangements for a telephonic appearance have been made, the party who made the arrangements is responsible for informing Court Call that the matter has been taken off calendar.

D. **MOTIONS TO SEAL**

Motions to seal documents shall be filed in accordance with Civil Local Rule 79-5. In e-filing cases, all materials supporting a motion to seal, including both the redacted *and* the unredacted versions of the document as to which sealing is requested, must be filed electronically as exhibits to the motion to seal. *See* Civ. L.R. 79-5(d)(1). Instructions for

sealing the exhibit comprising the unredacted version of the document may be found on the ECF website. In both e-filing cases and non-e-filing cases, a chambers copy of the motion and *all* exhibits must be submitted. The unredacted version of the document must indicate by highlighting which portions of the document have been omitted from the redacted version; this requirement applies whether the unredacted version of the document is e-filed, filed manually, or submitted as a chambers copy.

E. SUBSTANTIVE MOTIONS

With the exception of cross-motions for summary judgment, addressed below in Section F.2., substantive motions are subject to the following page limits: the moving brief shall not exceed 25 pages, the opposition brief shall not exceed 25 pages, and the reply brief shall not exceed 15 pages. *See* Civ. L.R. 7. These page limits are maximums, not minimums – counsel and parties are encouraged to be concise. Title pages, tables of contents, indexes of cases, and exhibits are not included in these page limits. All written text, including footnotes and quotations, shall be no less than 12-point type. *See* Civ. L.R. 3-4.

F. MOTIONS FOR SUMMARY JUDGMENT

1. One Motion for Summary Judgment per Party

Unless otherwise ordered by the Court, only 1 motion for summary judgment, partial summary judgment, or summary adjudication may be filed by each party.

2. Summary Judgment Motions Heard 90 Days Before Trial

Summary judgment motions shall be heard at least 90 days before trial.

3. Separate Statement

Any party moving for summary judgment or opposing a motion for summary judgment must submit a separate statement as set forth herein.

a. Moving Separate Statement

Parties moving for summary judgment must include a separate, short and concise statement identifying each claim or defense – or the part of each claim or defense – as to which the moving party contends there is no genuine issue to be tried (“Moving Separate Statement”). With respect to *each* such

claim or defense or part thereof, the Moving Separate Statement must:

(1) identify the relevant elements or issues; (2) list the asserted material facts establishing those elements or issues; and (3) cite to record evidence showing that the asserted material facts are undisputed (e.g., deposition, declaration, discovery response). Upon filing, the moving party shall provide the Moving Separate Statement to all other parties in an electronic, word-processing format for ease of response thereto. The Moving Separate Statement must follow this format:

Claim or Defense	Moving Party's Undisputed Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
Claim 3 Breach of Contract		
(1) Plaintiff did not perform under the contract.	Fact 1. Defendant issued a homeowner's insurance policy to Plaintiff. Jones Decl. ¶¶ 4-5 and Ex. A (policy).	
	Fact 2. Plaintiff failed to pay her premiums. Jones Decl. ¶ 6.	
(2) Defendant did not breach the contract.	Fact 3. The policy expressly excludes coverage for loss resulting from theft. Jones Decl. ¶¶ 9-10 and Ex. A (policy).	
Punitive Damages		
(1) Plaintiff cannot establish that Defendant acted with oppression, fraud, or malice.	Fact 4. Defendant timely investigated Plaintiff's insurance claim. Jones Decl. ¶¶ 18-20.	

b. Responsive Separate Statement

The papers opposing a motion for summary judgment shall include one Responsive Separate Statement which: (1) incorporates the Moving Separate

Statement; (2) indicates whether each of the facts listed in the Moving Separate Statement is disputed or undisputed; and (3) identifies any additional material facts that the party contends will establish a genuine issue to be tried. If the opposing party contends that a fact is in dispute, the opposing party must cite to evidence in the record establishing the dispute. Responsive Separate Statements must follow this format:

Claim or Defense	Moving Party's Undisputed Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
Claim 3 Breach of Contract		
(1) Plaintiff did not perform under the contract.	Fact 1. Defendant issued a homeowner's insurance policy to Plaintiff. Jones Decl. ¶¶ 4-5 and Ex. A (policy).	Undisputed.
	Fact 2. Plaintiff failed to pay her premiums. Jones Decl. ¶ 6.	Disputed. Plaintiff timely paid her premiums. Smith Dep. 22:4-23:19.
		<u>Additional Fact:</u> Defendant has failed to record Plaintiff's timely premium payments on 2 prior occasions. Smith Dep. 72:8-14
(2) Defendant did not breach the contract.	Fact 3. The policy expressly excludes coverage for loss resulting from theft. Jones Decl. ¶¶ 9-10 and Ex. A (policy).	Disputed. The policy does not exclude coverage for loss resulting from theft. Jones Decl. Ex. A (policy)
Punitive Damages		
(1) Plaintiff cannot establish that Defendant acted with oppression, fraud, or malice.	Fact 4. Defendant timely investigated Plaintiff's insurance claim. Jones Decl. ¶¶ 18-20.	Disputed. Defendant waited more than 4 months before investigating Plaintiff's claim. Smith Dep. 79:15-80:4

1 **c. Reply Separate Statement**

2 The moving party may file a Reply Separate Statement that incorporates and
3 responds to the Responsive Separate Statement.

4 **d. Deemed Admitted Unless Controverted**

5 Each numbered fact in the Moving Separate Statement will be deemed to be
6 admitted for purposes of the motion unless specifically controverted by the
7 opposing party. The moving party must meet its burden of proof under
8 Federal Rule of Civil Procedure 56.

9 **e. Page Limits for Separate Statements**

10 Unless a party has obtained prior leave of the Court, the Moving Separate
11 Statement is limited to no more than 15 pages, and the Responsive Separate
12 Statement is limited to no more than 5 additional pages beyond the number of
13 pages in the Moving Separate Statement.

14 **f. Attestation**

15 Each separate statement must be signed by counsel (or a party, if proceeding
16 *pro se*) who has reviewed the document and attests as follows:

17 *I attest that the evidence cited herein fairly and accurately supports (or*
18 *disputes) the facts as asserted.*

19 **4. Cross-Motions**

20 Any cross-motion for summary judgment shall be incorporated into the opposition to
21 the motion for summary judgment; the combined opposition/cross-motion shall not
22 exceed 25 pages in length. Any opposition to a cross-motion for summary judgment
23 shall be incorporated into the reply to the opposition to the motion for summary
24 judgment; the combined reply/opposition to cross-motion shall be limited to 15 pages
25 in length. A reply to the opposition to the cross-motion may be filed and served not
26 more than 7 days after the filing of the opposition to the cross-motion and shall be
27 limited to 15 pages in length.
28

Objections to evidence shall comply with the Civil Local Rules, which require that objections be contained within the objecting party's brief and that the text of all briefs be double-spaced. *See* Civ. L.R. 3-4(c)(2), 7-3(a), (c).

All proposed orders in e-filing cases shall be submitted *in Word format* by email to BLFpo@cand.uscourts.gov on the same day the proposed order is e-filed.

Civil Local Rule 5-1 requires parties to provide chambers with a paper copy of each document that is filed electronically. Chambers copies shall be generated from ECF after electronic filing so that they bear the ECF filing information along the top of the page: case number, document number, and filing date. Chambers copies must be single-sided (printed on only one side of the page), must be 2-hole punched at the top, and must be stapled or fastened with metal prongs. In addition, *chambers copies must include numbered bottom tabs (not side tabs) between exhibits*. Each chambers copy shall be marked “Chambers Copy” and shall be submitted to the Clerk’s Office in an envelope marked with the case number and with the words “Chambers Copy” and “Judge Beth Labson Freeman.”

Parties representing themselves are encouraged to visit the link titled “PRO SE LITIGANTS” located at the top of the Court’s homepage, <http://www.cand.uscourts.gov>. The link provides information about the Federal Legal Assistance Self-Help Center (FLASH) at the San Jose Courthouse, which is located on the 2nd Floor in Room 2070. The link also provides other information that may be useful to unrepresented parties.

Dated: July 23, 2014

7